IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMARY SUIT NO.2751 OF 2004

M/s Dave & Shah & Co (Switchgear) P.Ltd.. Plaintiff

versus

M/s Supreme Telecommunications Ltd .. Defendant

Mr. G.M.Shetty for Plaintiff.

CORAM : D.G. KARNIK, J

DATED : 9th March 2005.

P.C:-

1. Heard learned counsel for the plaintiff. None present for the defendant.

2. The plaintiff through its learned counsel gives up the claim for interest prior to the date of filing of the suit.

3. Perused the affidavit of service dated 9th December, 2004. Despite service the defendant has not filed any appearance. Hence, the plaintiff is entitled to a decree under order 37 Rule 2 (3) of the Code of Civil Procedure.

4. The plaintiff has produced on record the documents under a list. The documents are taken on record and collectively marked Exhibit A for identification. In the plaintiff the plaintiff has averred that it sold and delivered goods as per the defendant's purchase order but the defendant failed and neglected to make the payment. The plaintiff has produced the original purchase order on record and also placed on record copies of the invoices under which goods were supplied. The invoices bears the signature and the rubber stamp of the defendant. The plaintiff has also filed on record the original lorry receipt.

5. In the absence of any appearance of the defendants, statement made by the plaintiff in the plaint are believed and the plaintiff is entitled to a decree under order 37 Rule 2 (3) of the Code of Civil Procedure. Hence, I pass the following order :

> " The defendant shall pay to the plaintiff a sum of Rs.4,23,404/- together with interest thereon at 9 % p.a. from the date of the suit till payment and all costs of the suit. Issue court fee refund as per rules. "

D.G.KARNIK, J